



**IN THE MATTER OF:**

**Complainant,**

**and**

**Respondent.**

**EEOC No.: 21 BA 31910**

**ALS No.: 04-272**

On November 10, 2004, a three member panel of the Illinois Human Rights Commission entered an order finding Respondent to be in default and referring this matter to the Administrative Law Section for a hearing on Complainant's damages. Although the Commission's order was mailed to both parties, neither party appeared at the appointed time for the damages hearing. No motions of any kind have been filed by either party. A recommended Order and Decision issued on January 18, 2005, however, that recommendation had a scrivener's error, and did not correctly identify the Respondent. The matter is now ready for decision.

1. On November 10, 2004, a three-member panel of the Human Rights commission entered an order finding Respondent in default. That order was served on both parties.
2. On December 8, 2004, the administrative law judge entered an order that scheduled a hearing on Complainant's damages for January 18, 2005. That order was served upon both parties by mail.
3. Neither party appeared at the damages hearing scheduled for January 18, 2005. Neither party filed a motion to continue the hearing.

### CONCLUSIONS OF LAW

1. As a result of the default entered against Respondent, there are no liability issues to address.
2. Because of his failure to appeal at the hearing on damages, Complainant has abandoned any claim to such damages.

### DISCUSSION

On November 10, 2004, a panel of the Illinois Human Rights Commission entered an order of default against Respondent, Morgan Marshall Industries. As a result of that order, there are no liability issues to address. Only damages remain to be determined.

On December 8, 2004, an order was entered scheduling a damages hearing for January 18, 2005. A copy of that order was served upon the parties by first class mail. The orders were not returned by the U.S. Postal Service.

Neither party appeared at the appointed date and time for the damages hearing. Neither party filed a motion to continue the hearing.

It appears that, despite the default order entered against Respondent, Complainant has abandoned his claim. In such a situation, it is appropriate to allow the default order to stand, but to deny the Complainant damages. ***Roscoe and Sudden Service Mounting and Finishing***, \_\_\_\_ Ill. HRC Rep. \_\_\_\_, (1991 CF 2070, June 10, 1994); ***Butt and Early Years, Inc.***, \_\_\_\_ Ill. HRC Rep. \_\_\_\_, (1989 CF 2543, April 23, 1994).

### RECOMMENDATION

Based upon the foregoing, by his failure to appear to prove his damages, Complainant has abandoned his claim for such damages. Because a default order has already been issued against Respondent, it is recommended that the default order

stand, but that an order be entered stating that Complainant has not proven any damages.

HUMAN RIGHTS COMMISSION

By: \_\_\_\_\_

MARY KENNEDY  
CHIEF ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: March 25, 2005